

COMPLIANCE AGREEMENT
between the
Pacific Battleship Center
and the
UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

IN RE: Transfer of ex-USS IOWA (BB-61) from the U.S. Department of the Navy to
the Pacific Battleship Center in San Pedro, California

PARTIES

1. The United States Environmental Protection Agency ("EPA") and the Pacific Battleship Center ("Donee") are parties to this Compliance Agreement ("Agreement") regarding the donation by the United States Department of the Navy ("Navy") of ex-IOWA (BB-61) to the Donee for use as a static museum and memorial.

PURPOSE

2. This Agreement specifies the terms and conditions under which EPA will exercise its enforcement discretion to refrain from instituting an enforcement action against the Donee for violation of the requirements relating to polychlorinated biphenyls ("PCBs") under the Toxic Substances Control Act ("TSCA"), 15 U.S.C. §§ 2601 et seq., and the PCB regulations at 40 C.F.R. Part 761, arising from the Donee's continued use of PCBs and PCB Items onboard ex-IOWA, and from any distribution in commerce of PCBs and PCB Items, in regulated concentrations, based upon any transfer of title to, and/or possession of, the vessel between the Navy and Donee. If the Donee complies with each of the terms and conditions of this Agreement, EPA will not institute any such enforcement action against the Donee. Based on the facts presented to EPA and referenced in this Agreement, EPA has determined that this exercise of enforcement discretion will serve the public interest.

APPLICABILITY

3. This Agreement applies to both authorized and unauthorized uses of PCBs and PCB Items onboard ex-IOWA. For authorized uses of PCBs and PCB Items, this Agreement includes terms and conditions that are in addition to existing regulatory requirements at 40 C.F.R. Part 761.

4. This Agreement mandates sampling, maintenance, notice, training, cleanup procedures, and other requirements for PCBs and PCB Items on ex-IOWA.

5. The EPA's enforcement discretion regarding the distribution in commerce of PCBs and PCB Items onboard ex-IOWA by the Navy to the Donee is addressed in a separate EPA/Navy agreement. That agreement identifies the steps the Navy will take with respect to the distribution in commerce of PCBs and PCB Items onboard ex-IOWA to the Donee.

6. This Agreement is not, and shall not be construed as, a release of the Donee from any legal obligations under TSCA or any other environmental laws.

DEFINITIONS

7. The following definitions apply to this Agreement. If a term is not defined below, it shall have the meaning set forth in Section 3 of TSCA, 15 U.S.C. § 2602, or in 40 C.F.R. Part 761. If a term is not defined below, in Section 3 of TSCA, or in 40 C.F.R. Part 761, such term shall have its ordinary meaning.

a. "Days" means calendar days unless otherwise specified. However, if a document submittal under this Agreement falls due on a weekend or federal holiday, it will be due and deemed timely if submitted on the next business day following the weekend or holiday on which it fell due.

b. "Fillers" means any soft, moldable non-liquid materials used to fill and seal joints and voids.

c. "Liquid-filled PCB Item" means any item that does in fact or is assumed to contain liquid PCBs and includes transformers, capacitors, and any other piece of equipment or other material having or assumed to contain a liquid PCB component.

d. "Non-liquid PCB materials" means any non-liquid materials containing PCBs including, but not limited to, all of the following items which may contain PCBs and, for the purposes of this Agreement, are assumed to contain PCBs on ex-IOWA: caulking; felt and rubber ventilation duct flange gaskets; insulation and other nonmetallic components of electrical cable; fluorescent light ballast starters and potting material; bulkhead and pipe insulation; foam rubber/plastic/fiberglass/cork anti-sweat insulation used on hull surfaces and cold water piping; other rubber products such as pipe hanger rubber blocks, snubbers, bumpers, shock and vibration mounts, pads, spools, hatch gaskets, O-rings, packing, grommets, etc.; adhesive tape and double-backed adhesive tape; dried aluminized paint; and dried oil-based paint.

e. "PCB inventory" means the complete and final listing of suspected liquid-filled PCB Items onboard ex-IOWA, which was developed by the Navy and dated May 10, 1995 (attached hereto as Exhibit 1).

f. "Publicly accessible area" means any area onboard the ex-IOWA to which the public is allowed access under this Agreement.

g. "Spill" means residual PCBs left on any surface resulting from any past use, management, processing, storage, transportation or disposal of PCBs or liquid-filled PCB Items.

h. "The public" means all natural persons, including but not limited to tourists, press personnel, business visitors, VIPs, museum employees, volunteers, routine cleaning personnel and vendors, but excluding the following persons: (1) employees or contractors of the Donee who are responsible for watertight integrity and/or ship safety inspections, minor vessel repairs, vessel project management, city code inspections, vessel architecture and/or engineering, and vessel exhibit and program designing; and (2) persons hired by or on behalf of Donee for the purposes of conducting PCB inspections, sampling, disposal, remediation, mitigation or maintenance activities required by this Agreement.

STATEMENT OF FACTS

8. Under 10 U.S.C. § 7306, the Navy is authorized to donate vessels to State and local governments and non-profit organizations. Pursuant to this statutory authority, the Navy proposes to donate ex-IOWA to the Donee for use as a static museum and memorial.

9. The Navy and the Donee intend to enter into the CONTRACT FOR THE DONATION OF THE BATTLESHIP ex-IOWA (BB-61), Contract No. N00024-12-C-4205 (hereinafter, "Donation Contract") (attached hereto as Exhibit 2), which will be the sole legal document evidencing the transfer of title to ex-IOWA from the Navy to the Donee and shall require the Donee to maintain ex-IOWA in a condition satisfactory to the Navy, including the management of ex-IOWA in accordance with the requirements established by this Agreement between the Donee and EPA.

10. The Navy has provided EPA and the Donee with written notification of all items that are known to contain, or that potentially contain, liquid PCBs in regulated concentrations onboard ex-IOWA. This notification is in the form of a final inventory which lists, as applicable, the sample location, sample identification, type of aroclor, aroclor units, and the "description" of the PCB material. The Navy also provided to EPA and the Donee sampling results obtained by the Navy or under the direction of the Navy, or by any third party, concerning PCBs on ex-IOWA. (See Exhibit 1).

11. In addition to the above-referenced inventory of liquid-filled PCB Items onboard ex-IOWA, available data show that various solid, i.e., non-liquid, materials, found on Navy ships and in other non-maritime and non-military industrial applications, may contain regulated PCBs. Such materials include: caulking; felt and rubber ventilation duct flange gaskets; insulation and other non-metallic components of electrical cable; fluorescent light ballast starters and potting materials; bulkhead and pipe insulation; foam rubber/plastic/fiberglass/cork anti-sweat insulation used on hull surfaces and cold water piping; other rubber products such as pipe hanger rubber blocks, snubbers,

bumpers, shock and vibration mounts, pads, spools, hatch gaskets, O-rings, packing, grommets, etc.; adhesive tape and double-backed adhesive tape; dried aluminized paint; gloss oil-based paint; and oils and greases. Ex-IOWA contains some of these materials.

12. The Navy's 1995 PCB sampling of ex-IOWA shows that there are some non-liquid PCB materials with PCB concentrations ranging from less than 1 ppm to 150 ppm onboard the vessel (See Exhibit 1). This sampling does not completely characterize the extent to which PCBs are present in all types of non-liquid materials on ex-IOWA. Consequently, other materials of these types and other types of non-liquid materials may exist on ex-IOWA with PCB concentrations that exceed the levels identified to date.

13. PCB use, distribution in commerce, and disposal are regulated by the EPA under TSCA and 40 C.F.R. Part 761. With limited exceptions, PCBs and PCB Items, regardless of concentration, may not be used in any manner other than in a totally enclosed manner within the United States unless otherwise authorized by the EPA under TSCA (40 C.F.R. § 761.20(a)). Some materials onboard ex-IOWA exist in a non-totally enclosed manner and their use may not be authorized by EPA.

REQUIREMENTS

(Disposal of PCB Items, Sampling and Preparation of Publicly Accessible Areas, Maintenance, Training, Quality Assurance, EPA Deliverables)

14. Compliance with the following requirements shall be documented and deliverables shall be submitted to EPA Region 9 within the time periods prescribed. EPA Region 9 shall determine the adequacy and completeness of all submissions required under this Agreement. Where any action or series of actions is required, the Donee shall provide EPA Region 9 with written confirmation that the requirement has been met.

Immediately upon execution of this Compliance Agreement, any person entering the interior of the vessel shall wear personal protection equipment (PPE) which includes cloth coveralls, gloves, booties, and a full-face twin cartridge respirator designed to protect against both particulate and vaporous forms of PCBs. The PPE shall be worn in each area until such time as the PCB Contamination Levels set forth in Paragraphs 14.d.(3) and (4) below are achieved for each such area.

a. General Requirement to Comply

The Donee shall comply with all PCB regulations (40 C.F.R. Part 761), except as otherwise provided for in this Agreement.

b. Disposal of PCBs

The Donee shall ensure compliance with the disposal procedures specified in 40 C.F.R. Part 761, Subpart D and the storage procedures specified in 40 C.F.R. § 761.65 for PCB waste.

(1) Disposal of Liquid-Filled PCB Items Except as provided in Paragraph 14.b.(4), below, after the donation of ex-IOWA and prior to allowing the public access to interior portions of the vessel, the Donee is required to dispose of all regulated liquid-filled PCB Items listed on the final PCB Inventory (See Exhibit 1) in accordance with the PCB disposal regulations. The Donee shall provide written notification, including copies of manifests and certificates of disposal, to EPA Region 9 certifying that the liquid-filled PCB Items found on ex-IOWA and those listed on the PCB inventory have been removed and disposed of in accordance with the PCB disposal regulations. If, after the interior of the vessel is opened for public access, additional liquid-filled PCB Items are found, the Donee shall notify EPA Region 9 of their discovery within 3 business days of such discovery and the Donee shall dispose of them in accordance with the PCB disposal regulations. If the Donee is unable to remove liquid-filled PCB Items found on ex-IOWA or listed on the PCB inventory due to their locations on the vessel or if the structural or historical integrity of the vessel would be jeopardized by their removal, the Donee shall consult with EPA, who, in consultation with the Navy, shall determine whether the PCB Item shall be removed.

(2) PCBs Maintained In Place With the exception of caulk and other fillers which shall be removed and disposed of as set forth in Paragraph 14.d.(3)(e), the Donee shall maintain, intact and in place in their existing application, the PCBs described as non-liquid PCB materials, unless normal maintenance or renovation requires their removal. Removed non-liquid PCB materials at concentrations of greater than or equal to 50 ppm shall be disposed of in accordance with the PCB regulations at 40 C.F.R. Part 761. The public shall be protected from exposure to non-liquid PCBs maintained in existing applications through implementation of the requirements specified in Paragraphs 14.c and 14.d, below. (Note that the determination of whether a non-liquid porous material, *e.g.*, dry paint, is regulated for disposal must be based on laboratory analyses of representative bulk samples of the material, *e.g.*, dry paint chips, rather than on analyses of surface wipe samples collected and analyzed pursuant to Paragraphs 14.c and 14.d, below.)

(3) Readily Accessible Items Items and materials such as rubber and felt gaskets at ventilation duct junctions which are disassembled during the course of maintenance, repair, or remediation work shall be disposed of in accordance with 40 C.F.R. §§ 761.60 or 761.62.

c. Sampling and Preparation of Ship's Weather Decks

Within 30 days after the execution of this Agreement (or within a time frame mutually agreed to in writing by Region 9 and the Donee), the Donee shall develop and submit to EPA Region 9 for approval a sampling plan for the vessel's weather decks. The sampling plan shall identify locations whose surfaces have a high potential for public contact such as handrails, gunwales, gun turrets, bulkheads, etc. and shall specify the collection of a sufficient number of surface wipe samples to be representative of each type of high contact surface. The Donee shall implement the approved sampling plan within thirty (30) days after receiving EPA Region 9's approval of such plan (or within a time frame mutually agreed to in writing by Region 9 and the Donee). The Donee may permit public access to weather deck tour routes while the results of the sampling required under this subparagraph are pending. The Donee shall provide a report containing the sampling results to EPA Region 9 within 30 days after the samples are collected (or within a time frame mutually agreed to in writing by Region 9 and the Donee). If the sampling results indicate the presence of PCBs at levels of greater than or equal to 10 µg/100 cm² on any surface, the Donee shall immediately inform EPA Region 9 and discontinue public access to the contaminated area(s). The Donee shall decontaminate such surfaces as described in Paragraphs 14.d.(3) and (4) below. Sampling, analysis, reporting, and decontamination activities shall be performed by the Donee or under the Donee's direction to ensure compliance with Paragraphs 14.d.(2)(a)-(f) below.

d. Sampling and Preparation of Proposed Publicly Accessible Areas

(1) Sampling Plan The Donee shall develop and submit for EPA Region 9 approval a sampling plan for interior surfaces and indoor air for each area of the vessel to be accessed by the public. The Donee may submit sequential sampling plans. The number of interior surface and interior air samples required shall be sufficient to be representative of each such area. Any oil or grease stains discovered on any surface areas in each such area shall be sampled for PCB contamination. Concurrently, with the submittal of each sampling plan, the Donee shall submit to EPA Region 9 a deck plan that shows the locations of any proposed samples.

(2) Sampling and Analysis The Donee shall execute each EPA Region 9 approved sampling plan required in Paragraph 14.d.(1) above no later than thirty (30) days following receipt of EPA approval of each plan (or within a time frame mutually agreed to in writing by Region 9 and the Donee). The Donee shall provide EPA Region 9 with the sampling results for each area no later than twenty-one (21) days after the samples are taken (or within a time frame mutually agreed to in writing by EPA Region 9 and the Donee). Concurrently, with the submittal of the sampling results, the Donee shall submit to EPA Region 9 a deck plan showing the areas and sampling locations and highlighting those areas exceeding the PCB levels required by Paragraph 14.d.(3). Sampling, analysis, and associated activities related to known or suspected PCBs shall be

conducted by the Donee or under the Donee's direction to ensure conformance with the following EPA directives, or others specified by EPA Region 9:

- (a) Use the standard wipe test as defined in 40 C.F.R. § 761.123 for the surface wipe sampling and the annual wipe monitoring. If test results confirm PCB concentrations of greater than or equal to $10 \mu\text{g}/100 \text{ cm}^2$ on any surface, the Donee will inform EPA Region 9 and will remediate such surface to the levels described in Paragraph 14.d.(3), below.
- (b) Extract and analyze sampling media in accordance with Extraction Method 3540C and Analytical Method 8082 in "SW-846, Test Methods for Evaluating Solid Waste."
- (c) Conduct all sample preservation, chain-of-custody record-keeping, and quality assurance/quality control ("QA/QC") procedures utilized for remediation of PCB spills and clean-ups and for air monitoring in accordance with "Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans (QAMS-005/80)."
- (d) The Donee shall sample and analyze for total PCBs in the air from locations representative of any proposed publicly accessible area. The sampling and analysis shall be performed in accordance with EPA Method TO-4A, or EPA Method TO-10A to achieve a limit of quantification for PCBs of 0.1 microgram per cubic meter ($0.1 \mu\text{g}/\text{m}^3$) or less. When collecting the air samples for analysis, Donee shall sample the indoor air at each location for no fewer than eight (8) continuous hours. Donee shall conduct air monitoring and sample analyses in accordance with any methodologies that EPA may specify in the future to ensure that the measurement of airborne PCBs is scientifically accurate and sensitive enough to quantify PCBs accurately at 0.1 microgram per cubic meter. The Donee must submit its written plan and procedures for performing the air sampling and analysis required by this paragraph for review and approval by EPA in accordance with Paragraphs 14.d.(1) and (2), above.
- (e) The Donee is required to perform background air sampling and baseline interior air sampling in any proposed publicly accessible area. If the Donee intends to use the air handling systems, they must be on and operational during the baseline interior air sampling.
- (f) The Donee agrees to conduct any additional sampling that EPA may determine necessary within time frames established by EPA after consultation with the Donee.

(3) PCB Contamination Levels Except as provided in Paragraph 14.c., Sampling and Preparation of Ship's Weather Decks, the Donee shall prohibit public access to any location onboard ex-IOWA that does not meet the following remediation criteria:

- (a) Any surface sampled and verified to have less than $10 \mu\text{g}/100 \text{ cm}^2$ PCBs on surfaces requires no remediation.
- (b) Any surface area, except the surfaces of caulk and other fillers which shall be removed and disposed of as set forth in Paragraph 14.d.(3)(e), with PCB levels greater than or equal to $10 \mu\text{g}/100 \text{ cm}^2$ but less than or equal to $100 \mu\text{g}/100 \text{ cm}^2$ must be encapsulated.
- (c) Any surface area, except the surfaces of caulk and other fillers which shall be removed and disposed of as set forth in Paragraph 14.d.(3)(e), with PCB levels greater than $100 \mu\text{g}/100 \text{ cm}^2$ must be cleaned to less than or equal to $100 \mu\text{g}/100 \text{ cm}^2$ and then the area must be encapsulated.

(d) Air inside the vessel shall not exceed 0.2 micrograms total PCB per cubic meter of air ($0.2 \mu\text{g}/\text{m}^3$) determined as a time-weighted average concentration for up to a 10-hour day and 40-hour week.

(e) Any caulk and other fillers with surface levels of PCBs greater than or equal to $10 \mu\text{g}/100 \text{ cm}^2$ must be removed and disposed of in accordance with 40 C.F.R. Part 761. (Encapsulation shall not be used as a method to remediate PCB-contaminated caulk or other fillers).

(4) Encapsulation Encapsulation will consist of two (2) coats of an effective coating that will be applied to cover the exposed surfaces extending six (6) inches beyond the area of contamination. Both coatings must be insoluble in hexane. The first (primary) coat and second (secondary) coat shall be of different colors to ensure proper encapsulation and clear evidence of wear. The primary coat of encapsulant shall be a yellow color that is similar in shade to the PCB warning labels unless there is already a yellow color adjoining the encapsulation, in which case the first coat of encapsulant shall be red. The secondary coat shall be any color contrasting with yellow, or contrasting with red, if that color is applied as the first coat. Upon completion of encapsulation requirements, the Donee shall notify EPA Region 9 in writing within thirty (30) days of completion. Locations of all encapsulated areas shall be documented and noted on a deck plan and this documentation shall be submitted to EPA Region 9.

Prior to any painting, the Donee shall notify painters of the likely presence of PCBs and advise them of procedures to minimize exposure (including no scraping or sanding of substrate unless necessary). The Donee shall require painters to use appropriate protective measures such as protective clothing, eye protection and respirators, as specified by EPA Region 9, if painters or other personnel engage in scraping or sanding of this material. Any dust generated during scraping or sanding shall be carefully removed from the area as soon as possible and before the public has access to that area, and disposed of in accordance with applicable regulatory requirements. (See Paragraph 14.b.(2) above).

(5) The Donee shall remove all PCB ballasts from fluorescent lights in all publicly accessible areas. The Donee shall submit for EPA review and approval any information which demonstrates that any fluorescent light ballast that is not removed does not contain detectable concentrations of PCBs.

(6) Preventing Public Access The Donee shall take measures to prevent public access to all areas which do not meet the requirements of Paragraph 14.d.(3), and therefore, are not publicly accessible areas under this Agreement. Those areas shall be secured against access by the public by locking hatch doors or posting signs and chaining or barring entranceways to prohibit public access.

(7) Written Notice of Tour Commencement Not later than thirty (30) days prior to commencement of tours (or within a time frame mutually agreed to by EPA Region 9 and the Donee), the Donee shall provide EPA Region 9 with written notice of the date tours are scheduled to begin.

(8) Annual Air Monitoring Requirements The Donee shall monitor the interior air in the publicly accessible areas of the vessel for PCBs annually as required in Paragraph 14.d.(2)(d) above or as otherwise required by EPA after baseline air sampling results are reviewed. The Donee shall provide all PCB concentration air monitoring reports to EPA Region 9 in writing, simultaneously with the Donee's receipt of the results, but no later than thirty (30) days following air sample collection by the laboratory. If monitoring results show that the concentration of airborne PCBs exceeds the level required by Paragraph 14.d.(3)(d) above, the Donee shall immediately suspend public access to the affected areas, shall turn off the air handling system in the affected areas and shall inform EPA in writing within forty-eight (48) hours of such action. The affected areas shall be thoroughly ventilated with the outside air, the air handling system shall be cleaned, and

monitoring shall be re-initiated with the air handling system operating after hours, while tours are not being conducted. Monitoring shall continue until the PCB concentrations no longer exceed the level required by Paragraph 14.d.(3)(d) above and EPA Region 9 determines that the affected area may be open again for public access. To reduce airborne levels of PCBs, EPA Region 9 may require the removal of non-liquid PCB materials that are external to the air handling system as well as removal of the rubber or wool felt gasket material in the air handling system serving the area.

(9) Annual Wipe Monitoring At least thirty (30) days prior to allowing public access to the interior portions of the vessel (or within a time frame mutually agreed to in writing by EPA Region 9 and the Donee), the Donee shall submit to EPA Region 9, for approval, a plan for subsequent annual wipe sampling of each encapsulated area. The Donee shall provide all annual wipe monitoring reports to EPA Region 9 in writing, simultaneously with the Donee's receipt of the results, but no later than thirty (30) days following wipe collection by the laboratory. If, during the annual wipe monitoring, the Donee discovers that the PCB level in any encapsulated area is greater than or equal to $10 \mu\text{g}/100 \text{ cm}^2$ on surfaces, the Donee must immediately suspend public access to that area and shall inform EPA Region 9 in writing within forty-eight (48) hours of such discovery. The plan shall require that any encapsulated area where samples contain greater than or equal to $10 \mu\text{g}/100 \text{ cm}^2$ shall be remediated and encapsulated with an additional two coats of encapsulant as per Paragraphs 14.d.(3) and (4) above. Public access may be resumed only after EPA determines, based upon resampling conducted by the Donee, that the PCBs are within the levels specified in Paragraph 14.d.(3) above. If after the third application of encapsulation, the annual wipe monitoring reveals a concentration greater than or equal to $10 \mu\text{g}/100 \text{ cm}^2$, the Donee shall immediately suspend public access to such area and shall inform EPA Region 9 in writing within forty-eight (48) hours of such action. Within 30 days of such action, the Donee shall submit a plan for EPA approval which either requires the removal of the encapsulates and the non-liquid PCB material or prohibits public access to each such area. Such a plan shall be implemented within 30 days of EPA approval. Public access may be resumed only after EPA determines, based upon resampling conducted by the Donee, that the PCBs are within the levels specified in Paragraph 14.d.(3) above.

(10) Air Monitoring Following Repairs If there are repairs to the air handling system during which PCB gaskets or the encapsulating materials over the gasket material are disturbed (including removal of either gasket material or the encapsulating material) the monitoring frequency shall increase to quarterly. The Donee shall provide all post-repair PCB concentration air monitoring reports to EPA Region 9 in writing, simultaneously with the Donee's receipt of the results, but no later than thirty (30) days following air sample collection by the laboratory (or within a time frame mutually agreed to in writing by EPA Region 9 and the Donee). Monitoring may resume on an annual basis when the air sampling results from two (2) consecutive quarters demonstrate that PCB concentrations do not exceed the level required by Paragraph 14.d.(3)(d).

e. Regular Inspection and Maintenance

(1) Inspection and Maintenance Schedule Submission At least thirty (30) days prior to allowing the public access to interior portions of the vessel (or within a timeframe mutually agreed to in writing by EPA Region 9 and the Donee), the Donee shall submit to EPA Region 9 for approval a regular/routine maintenance schedule and maintenance procedures for publicly accessible areas. The approved maintenance schedule shall become a part of the Agreement by reference and/or attachment. This schedule shall include the provision that the Donee's maintenance staff shall conduct regular monthly inspections to determine whether any encapsulant has worn through or become dissociated from the non-liquid PCB materials. The written results of these inspections and any maintenance required as a result of these inspections shall be compiled by the Donee and sent to EPA Region 9 annually, by January 31 of the following year. This report shall include the date of discovery of either a primary coat and/or secondary coat becoming dissociated from the non-liquid PCBs and the date the reapplication of the coating(s) was accomplished. Written results of maintenance procedures performed in publicly accessible areas shall include a listing of

any PCB items or non-liquid PCB materials removed from their present locations once the area is open to the public. After EPA approval of the maintenance schedule, the Donee shall implement the approved schedule. Except as provided in Paragraph 14.c. above, the Donee shall not permit the public to board the vessel until EPA has approved the schedule and the Donee has begun to implement it.

(2) Notice of Maintenance to Be Performed Except as provided in Paragraph 14.e.(3), the Donee shall provide notice to EPA Region 9 at least thirty (30) days prior to performing maintenance on or removal of non-liquid PCB materials and the removal of PCB Items (unless the maintenance or removal is necessitated by emergency, then notice may be issued concurrent with the emergency maintenance or removal).

(3) Non-Liquid PCB Encapsulation Maintenance If vessel repairs, damage, alteration, maintenance, conversion, or the similar activities result in the opening or disturbing of non-liquid PCB encapsulated areas, or the regular inspections indicate wearing of the primary or secondary coats of the encapsulant, the following actions shall be taken by the Donee, provided that the method selected remains fully effective in preventing human and environmental exposure from PCB releases during the vessel's lifetime:

- (a) If any portion of both the primary and secondary encapsulation coat becomes dissociated from the non-liquid PCB material, the primary and secondary coat shall be reapplied within forty-eight (48) hours of the discovery of the dissociation from the non-liquid PCB material.
- (b) In the event that only the secondary coat wears away or becomes dissociated (e.g. chips off) from the primary coat, the secondary coat shall be reapplied within three (3) days of the discovery of the secondary coat's dissociation from the primary coat.
- (c) Depending on the amount of time for wear through of the secondary or primary coat, EPA Region 9 may require application of additional coats of paint, usage of a more effective paint covering or the construction of a more durable protective cover over the wear area.

(4) Maintenance and Removal of Ventilation Ducts Containing Felt Flange Gaskets:

- (a) Shall be accomplished by personnel wearing appropriate protective clothing and equipment who are trained in maintenance procedures applicable to these materials. Maintenance and removal of wire cables shall also be accomplished by trained individuals in appropriate protective clothing. Maintenance procedures shall include descriptions of potentially contaminated felt flanges, cleaning methods, and disposal requirements;
- (b) When accomplished by cleaning ducts with brushes or portable duct cleaning machines, shall require disposal of resultant dirt or debris in accordance with PCB disposal requirements at 40 C.F.R. § 761.60, unless tested and found not to contain PCBs in concentrations greater than or equal to 50 ppm. Brushes and vent duct cleaning equipment contaminated at concentrations greater than or equal to 50 ppm PCB shall either: (1) be disposed of in accordance with 40 C.F.R. § 761.60, or (2) be decontaminated in accordance with 40 C.F.R. § 761.79;
- (c) Shall require removal and disposal of rubber and felt gaskets from opened flanges in accordance with Paragraph 14.b.(3).

(5) Health and Safety Plan The Donee's health and safety plan, including personal protective equipment requirements, shall be prepared prior to implementing the requirements of this Compliance Agreement. The health and safety plan shall be kept on file at the office of the President of the Pacific Battleship Center and shall be available for inspection by EPA Region 9.

f. Training

The Donee shall provide initial and annual training to maintenance workers, tour guides, volunteers, and museum employees regarding the contents of the health and safety plan and regarding PCB items and non-liquid PCB materials found on ex-IOWA. Such training shall be provided through a training session completed prior to the employee beginning work and annually thereafter. A manual for this training shall be provided to EPA Region 9 thirty (30) days prior to the commencement of training (or within a timeframe mutually agreed to in writing by EPA Region 9 and the Donee). The Donee shall retain the names of individuals successfully completing the training and the training dates. The Donee shall provide this information to EPA upon request.

g. OSHA Notification

The Donee shall make available to any potentially exposed employee or any other potentially exposed individual engaged in repair, remedial, removal or disposal activities, information required under the Occupational Safety and Health Administration (OSHA) Hazard Communication Program at 29 C.F.R. § 1910.1200(h) before disturbing any materials identified as liquid-filled PCB items, non-liquid PCB material, or PCB spills. The Donee shall post a copy of Exhibit 1 at a site visible to any potentially exposed individual. Exhibit 1 shall be provided to the Los Angeles Fire Department no later than the date the vessel is conveyed to the Pacific Battleship Center.

h. EPA Review and Approval

(1) EPA Responses EPA Region 9 will review and respond to any Donee submission within sixty (60) days after receiving the submission, unless the parties agree in writing to alter the timeframe for submission and/or response. EPA Region 9 may extend the deadline for any submission at its sole discretion. EPA Region 9 will notify the Donee in writing of EPA's approval or disapproval of each submission. In the event of EPA's disapproval, EPA shall specify in writing any deficiencies in the submission. Within thirty (30) calendar days of receipt of EPA's comments on the submission, the Donee shall submit to EPA Region 9 for approval a revised submission, which responds to any comments received and/or corrects any deficiencies identified by EPA. In the event that EPA disapproves the revised submission, EPA may require that the Donee prohibit public access until the submission is revised and implemented in accordance with EPA's direction.

(2) Alteration of Technical Requirements EPA Region 9 may alter specific technical requirements in this Agreement in writing based on a written request from the Donee, at the sole discretion of EPA Region 9. Any such alteration shall become part of this Agreement and subject to all of the requirements herein.

i. Contact Information for Notifications, Reports, Correspondence, and Other Communications

All notifications, reports, and correspondence required under this agreement shall be provided to the following individuals as appropriate:

EPA Region 9: Manager, RCRA Enforcement Office
 U.S. EPA Region 9 (WST-3)
 75 Hawthorne Street
 San Francisco, CA 94105

Donee: Robert Kent, President
 Pacific Battleship Center
 P.O. Box 1739
 San Pedro, CA 90733-1739

PRESENCE OF OTHER ENVIRONMENTAL CONTAMINANTS ON EX-IOWA

15. The Donee acknowledges that ex-IOWA contains substances in addition to PCBs which may be regulated under state and/or federal environmental laws and regulations. These substances may include but are not limited to asbestos, lead, and sodium chromate. These substances are not addressed in this Agreement. The Donee acknowledges its responsibility to comply with all applicable environmental laws and regulations concerning these substances as well as any others which are on ex-IOWA.

FINANCIAL ASSURANCE

16. It is the expectation of the parties to this Agreement that all obligations established pursuant to this Agreement shall be fully funded. The Donee shall take all necessary steps and use its best efforts to obtain timely funding to meet its obligations under this Agreement. The Donee acknowledges that regardless of the money budgeted to meet the requirements of this Agreement, the Donee is responsible for compliance with the terms of this Agreement as well as all other environmental requirements concerning asbestos and the management and disposal of any other environmental contaminants aboard the vessel that may be governed by regulations promulgated under TSCA, the Resource Conservation and Recovery Act, the Clean Air Act or other applicable federal or state statutes or regulations which are not addressed in this Agreement.

a. The Donee shall use its best efforts to maintain adequate funding to cover the following items:

- (1) Maintenance of equipment in authorized uses (transformers, capacitors, hydraulic equipment, heat transfer equipment, electromagnets, switches, voltage regulators, circuit breakers, reclosers and liquid filled cable) and unauthorized uses (paints, caulks, wire insulation, gaskets in air circulation system ductwork, etc.);
- (2) Disposal of PCBs released and cleaned up by routine janitorial activities or a comprehensive spill cleanup;
- (3) Disposal of equipment in authorized use at the time of this Agreement, but at some later time designated for disposal; and
- (4) Injury and/or replacement of personal property in the event of a PCB related incident such as fire or spill.

b. The Donee assures EPA that \$3,000,000 in capital improvement program funds are available to develop ex-IOWA into a museum and approximately \$1,047,800 per annum in operating funds are available to perform the maintenance and operating procedures required under this Agreement. Of this total amount, the Donee has budgeted the sum of \$300,000 to perform the sampling, studies, surveys, assessments, and remediation as necessary to enter into this Agreement, comply with the terms hereof and the requirements of TSCA and other environmental statutes.

c. The Donee may provide further written assurance of its capability to support financially the requirements of this Agreement upon request of the EPA.

GENERAL PROVISIONS

17. The Donee shall maintain ex-IOWA in a condition satisfactory to the Navy. The Donee shall allow the Navy access to ex-IOWA and shall not interfere with the Navy in the exercise of the Navy's obligations to EPA under its compliance agreement with EPA. Further, the Donee shall obtain prior approval from the Navy before disposing of all or any part of ex-IOWA and before transferring or assigning any Donee interest in the vessel to any other entity. The Donee shall notify the EPA at least sixty (60) days prior to becoming obligated under any plan or agreement to dispose of ex-IOWA or to transfer or assign any interest in the vessel to another entity.

18. The Donee shall provide a copy of this Agreement to all contractors, subcontractors, laboratories, and consultants retained after the effective date of this Agreement to conduct or monitor any portion of the work to be

performed pursuant to this Agreement before such work is commenced. As to existing contracts, the Donee shall provide a copy of this Agreement to existing contractors within thirty (30) days of the effective date of this Agreement and at least seven (7) days prior to any contract personnel performing PCB maintenance, clean up or disposal activities as specified in this Agreement.

19. Modifications to this Agreement may be requested by EPA or the Donee. Except as otherwise provided herein, all such modifications shall be by mutual agreement of EPA and the Donee. All modifications requiring mutual agreement of EPA and the Donee shall be ineffective unless in writing and shall be effective as of the date the last party affixes its signature. If the laws or regulations relating to the matters covered in this Agreement change, both parties reserve the right to request modification of this Agreement to reflect such changes. Failure to agree upon such changes may result in termination of this Agreement by EPA.

20. The Donee agrees not to modify the Donation Contract in any manner that may affect any future obligation of the Navy and the Donee to manage PCBs or other environmental contaminants onboard ex-IOWA in accordance with the terms and conditions of this Agreement or with applicable environmental laws and regulations. The Donee shall provide EPA written notification of any plan to modify the Donation Contract at least sixty (60) days prior to executing any such modification.

21. The Donee shall notify EPA and the Navy if the Donee determines that it is no longer able or willing to maintain ex-IOWA as a museum or memorial within three (3) business days of making such determination. Within ninety (90) days of the Navy's receipt of notice from the Donee that it is no longer able or willing to maintain ex-IOWA, the Donee shall, upon receipt of direction from the Navy, transfer title to and possession of ex-IOWA to a third party pursuant to Section 3(g) of the Donation Contract or forfeit title to and possession of ex-IOWA to the Navy, provided that the Donee shall not transfer ex-IOWA to a transferee other than the Navy unless such transferee has demonstrated its capability, and has entered into an agreement with EPA that obligates the transferee, to perform and fulfill all of the Donee's obligations set forth herein as well as any obligations which EPA determines are, as a result of any material change in circumstances arising from such transfer and subsequent use by the transferee, necessary to protect human health, welfare, and the environment from PCBs onboard the vessel. EPA shall apply reasonable criteria in its evaluation of the aforementioned capability of any prospective transferee.

INSPECTION

22. The Donee hereby agrees to allow federal or state inspectors, including EPA, whose inspection would relate in any way to health, safety or environmental conditions, to board ex-IOWA at any time and view any and all portions of the vessel, including any records or documents, and take any samples they deem appropriate. The Donee also agrees to furnish all documents relating in any way to health, safety, or environmental conditions on, or potentially caused by materials from, ex-IOWA to federal or state inspectors upon request.

PROTECTION OF HUMAN HEALTH AND THE ENVIRONMENT

23. Notwithstanding anything to the contrary in the Donation Contract, if EPA determines that the PCBs on ex-IOWA may present an unreasonable risk to human health or the environment, then upon receipt of and in accordance with direction by EPA, the Donee shall:

- a. immediately take all necessary measures to ensure that all PCB hazards onboard the vessel are managed or disposed of pursuant to 40 C.F.R. Part 761, and
- b. immediately, upon receipt of a request by the Navy, 1) cooperate with the Navy to allow the Navy to take all necessary actions to ensure that all PCBs onboard are managed or disposed of pursuant to 40 C.F.R. Part 761, and/or 2) forfeit title to and possession of ex-IOWA to the Navy.

RESERVATION OF RIGHTS

24. EPA reserves the right to commence action against any person, including the Donee, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment.

ENFORCEMENT

25. In the event of a breach or suspected breach by the Donee of this Compliance Agreement, the Donee and EPA shall provide written notification to the other party to this Agreement and to the Navy of such event within two (2) business days of discovery of such breach or suspected breach. The Donee's failure to timely provide such notice shall constitute a breach of this Agreement. In the event of a breach by the Donee of this Compliance Agreement, EPA may require the Donee to prohibit public access to ex-IOWA unless EPA determines that the breach does not present a risk of harm to public health. In the event of breach by the Donee of any term or condition of this Agreement, EPA Region 9 shall afford the Donee a reasonable period of time specified in writing ("Cure Period") to correct such breach. If EPA determines that a breach of this Agreement has not been corrected within the Cure Period, then EPA, in its sole discretion, may: a) require the Donee, upon receipt of a request by the Navy, to forfeit to the Navy any and all rights it may have in ex-IOWA and title to and possession of ex-IOWA shall revert to the Navy; and/or b) provide written notice to the Donee of EPA's determination ("Notice of Determination of Noncompliance") that the Donee has failed to comply with the terms and conditions of this Agreement as described in Paragraph 2 of this Agreement. Such written Notice of Determination of Noncompliance shall state the reasons for such Determination of Noncompliance and shall specify a time period within which the Donee may respond to such Notice of Determination of Noncompliance. At the end of such time period, EPA may exercise whatever enforcement authorities it may have in response to any past or future violations of TSCA by the Donee, including any violation described in Paragraph 2 of this Agreement.

PARTIES BOUND

26. The provisions of this Agreement shall apply to and be binding upon the parties to this Agreement and their current and future officers, directors, agents, servants, employees, successors, and assigns in their respective capacities. The undersigned representative(s) of each party to this Agreement certifies that he or she is fully authorized by the party whom he or she represents to enter into the terms and conditions of this Agreement, to execute it on behalf of that party, and to legally bind the party on whose behalf he or she executes this Agreement. No change in the Donee's governance, corporate, or partnership status relating to ex-IOWA will in any way alter the responsibilities of the Donee under this Agreement.

TOLLING OF STATUTE OF LIMITATIONS

27. The time period during which Paragraph 2 of this Agreement is in effect shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by EPA based on claims arising from the Donee's continued use of PCBs in regulated concentrations onboard ex-IOWA and any transfer of title to or possession of the vessel between the Navy and Donee. Any defenses of laches, estoppel, or waiver, or other similar equitable defenses based upon the running or expiration of any time period shall not include the time period that this Agreement is in effect. The Donee shall not assert, plead, or raise against the United States in any answer, motion, or otherwise, any defense of laches, estoppel, or waiver, or other similar equitable defense based on the running of any statute of limitations or the passage of time included during the period when this Agreement is in effect in any action based on the aforementioned claims.


EFFECTIVE DATE

28. This Agreement shall become effective when this Agreement, the Compliance Agreement between the Navy and the EPA, referenced in Paragraph 5 above and the Donation Contract, containing terms and conditions identical to those in the proposed Donation Contract attached hereto as Exhibit 2 have been fully executed by all of the parties to each of these three agreements. If the proposed Donation Contract is substantively revised before it is executed by the Navy and the Donee, this Agreement shall not become effective.

THE PARTIES SO AGREE.

Compliance Agreement between Pacific Battleship
Center and EPA re: Transfer of ex-USS Iowa

FOR PACIFIC BATTLESHIP CENTER



Robert Kent
President
Pacific Battleship Center



Date

Compliance Agreement between Pacific Battleship
Center and EPA re: Transfer of ex-USS Iowa

FOR UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



Cynthia Giles
Assistant Administrator
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency



Date

Compliance Agreement between Pacific Battleship
Center and EPA re: Transfer of ex-USS Iowa

FOR UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



Jared Blumenfeld
Regional Administrator
U.S. Environmental Protection Agency, Region 9



Date

EXHIBIT 1

FOR OFFICIAL USE ONLY
REPORTS MAY BE DUPLICATED,
BUT ONLY IN THEIR ENTIRETY.

PAGE 1 OF 4

REPORT NUMBER

95NN01486

MAY 10 1995

LABORATORY DIVISION
NORFOLK NAVAL SHIPYARD
PORTSMOUTH, VA. 23709-5000

Customer's Ref. No.: IOWA (88-61)

Submitted by: GLEN CLARK

Shop/Code : PMS 33501

Phone : 703-602-5383

Program Code : TSCA

Job Order Number: 4702A13040/010/H

Sample Received: 950321

Sample Source: NISMF

ENVIRONMENTAL PCB TEST REPORT:

DESCRIPTION: PCB: SOLIDS / WIPES / OILS

SAMPLE	SAMPLE LOCATION / ID.	TEST	RESULT	UNITS	AROCLOL TYPE (#)
001	4-189-1-E, 3/8" BLK CABLE (COLLYER/1986)	PCBSOLID	64	ug/g	1254 1262
002	4-192-1-E, 1/2" GRAY CABLE (COLLYER/1981)	PCBSOLID	66	ug/g	1254 1262
003	4-189-1-E, 1/2" GRAY CABLE (ANACONDA/1983)	PCBSOLID	59	ug/g	1254 1262
004	4-189-1-E, 3/4" BLK CBL (CAROL CBL /1981)	PCBSOLID	32	ug/g	1254 1262
005	2-173-2-L, 3/8" GRAY CBL (PIRELLI /1983)	PCBSOLID	25	ug/g	1254 1262
006	4-189-2-E, 1" GRAY CABLE (BRAND REX/1982)	PCBSOLID	39	ug/g	1254 1262
007	2-144-4-L, 1" GRAY CABLE (COLLYER /1975)	PCBSOLID	13	ug/g	1254
008	3-150-1-C, 1/2" GRAY CBL (BRAND REX/1984)	PCBSOLID	150	ug/g	1254 1262
009	1-112-0-C, 3/4" GRAY CABLE (ANACONDA/1979)	PCBSOLID	7	ug/g	1254
010	1-112-0-C, 1/2" GRAY CBL (CONTINENTAL/1973)	PCBSOLID	6	ug/g	1254
011	02-89-0-C, 5/8" GRAY CBL (SUPREHANT/1976)	PCBSOLID	< 5	ug/g	ND
012	02-89-0-C, 1" GRAY CABLE (COLLYER /1976)	PCBSOLID	14	ug/g	1254 1262
013	02-93-4-C, 1/2" GRAY CBL (GENERAL /1975)	PCBSOLID	< 5	ug/g	ND
014	02-93-0-C, 3/8" GRAY CBL (PIRELLI /1982)	PCBSOLID	< 5	ug/g	ND
015	02-94-0-C, 1/2" GRAY CBL (PLASTOID/1984)	PCBSOLID	< 5	ug/g	ND
016	02-95-0-C, 3/8" GRAY CBL (WESTERN/NO DATE)	PCBSOLID	9	ug/g	1254
017	02-90-0-C, 1/2" GRAY CBL (CHESTER /1980)	PCBSOLID	11	ug/g	1254
018	02-89-0-C, 1/2" GRAY CBL (PLASTOID/1982)	PCBSOLID	6	ug/g	1254
019	02-94-1-L, 1/2" GRAY CBL (PLASTOID/1983)	PCBSOLID	< 5	ug/g	ND
020	02-97-1-L, 1 1/4" BLK CBL (CORNISH/1982)	PCBSOLID	< 5	ug/g	ND

Remarks:

(#) AROCLOR REPORTED WAS THE MAJOR PCB GROUP(S) DETECTED AND DOES NOT CONSTITUTE ALL COMMERCIAL GRADES.
ND = NONE DETECTED.

** Reviewer (signature) *Howard P. Ruffel* Date: *5/9/95* Released (signature) *Elizabeth Ruffel* Date: *5/10/95* Code : 134.12
Phone 6-3029

** The person designated to sign for an action verifies, based on personal observation, certified records, or direct report from watchstanders, and certifies by his signature that the action has been performed in accordance with the specified requirements.

Distribution:

Encl (1)

FOR OFFICIAL USE ONLY
REPORTS MAY BE DUPLICATED,
BUT ONLY IN THEIR ENTIRETY.

PAGE 2 OF 4
REPORT NUMBER

95NN01486

MAY 10 1995

LABORATORY DIVISION
NORFOLK NAVAL SHIPYARD
PORTSMOUTH, VA. 23709-5000

Customer's Ref. No.: IOWA (88-61)
Submitted by: GLEN CLARK
Shop/Code : PMS 33501
Phone : 703-602-5383

Program Code : TSCA
Job Order Number: 4702A13040/010/H
Sample Received: 950321
Sample Source: WISMF

ENVIRONMENTAL PCB TEST REPORT:

DESCRIPTION: PCB: SOLIDS / WIPES / OILS

SAMPLE	SAMPLE LOCATION / ID.	TEST	RESULT	UNITS	AROCLOL TYPE (#)
021	2-214-0-E, GREASE/ SONAR WINCH	PCBOIL	6	ug/g	1262
022	4-202-0-E, GREASE/ AFT STEERING #1	PCBOIL	< 1	ug/g	ND
023	4-192-1-E, OIL/ FILL AND DRAIN PUMP	PCBOIL	< 1	ug/g	ND
024	4-192-1-E, GREASE/ FILL AND DRAIN PUMP	PCBOIL	1	ug/g	1262
025	4-193-1-E, OIL/ HYDRAULIC OIL COOLER	PCBOIL	< 1	ug/g	ND
026	2-182-0-L, GREASE/ WINDLASS	PCBOIL	3	ug/g	1254
027	7-147-1-E, OIL/ STBD GENERATOR SUMP TANK	PCBOIL	< 1	ug/g	ND
028	2-123-4-Q, GREASE/ VERTICAL TURRET LATHE	PCBOIL	3	ug/g	1254
029	2-127-4-Q, OIL/ 25" LATHE	PCBOIL	< 1	ug/g	ND
030	2-26-0-E, OIL/STBD ANCHOR WINDLASS HYDR	PCBOIL	< 1	ug/g	ND
031	2-212-0-E, BLACK RUBBER CBL HANGER WRAP	PCBSOLID	13	ug/g	1254 1262
032	4-188-2-E, FELT VENT GASKET	PCBSOLID	59	ug/g	1254 1262
033	3-187-0-T, BLACK DOUBLE-BACKED TAPE	PCBSOLID	53	ug/g	1254 1262
034	2-181-4-A, THERMAL BULKHEAD INSULATION	PCBSOLID	< 5	ug/g	ND
035	2-171-0-L, FELT VENT GASKET	PCBSOLID	27	ug/g	1254 1262
036	2-185-0-L, BLACK RUBBER VENT GASKET	PCBSOLID	55	ug/g	1254 1262
037	2-173-6-L, WHITE DOUBLE-BACKED TAPE	PCBSOLID	15	ug/g	1254
038	2-172-4-L, BLACK DOUBLE-BACKED TAPE	PCBSOLID	12	ug/g	1254
039	2-160-6-Q, ALUMINUM PNT/ BALLAST FLANGE	PCBSOLID	< 5	ug/g	ND
040	2-145-2-L, BLACK RUBBER VENT GASKET	PCBSOLID	15	ug/g	1254 1262

Remarks:

(2) AROCLOR REPORTED WAS THE MAJOR PCB GROUP(S) DETECTED AND DOES NOT CONSTITUTE ALL COMMERCIAL GRADES.
ND = NONE DETECTED.

** Reviewer (signature) Date: 5/9/95 Released (signature) Date: 5/10/95 Code: 134.12
Phone 6-3029
** The person designated to sign for an action verifies, based on personal observation, certified records, or direct report from watchstanders, and certifies by his signature that the action has been performed in accordance with the specified requirements.

Distribution:

FOR OFFICIAL USE ONLY
REPORTS MAY BE DUPLICATED,
BUT ONLY IN THEIR ENTIRETY.

PAGE 3 OF 4

REPORT NUMBER

95NN01486

MAY 10 1995

LABORATORY DIVISION
NORFOLK NAVAL SHIPYARD
PORTSMOUTH, VA. 23709-5000

Customer's Ref. No.: 10WA (88-61)
Submitted by: GLEN CLARK
Shop/Code : PWS 335D1
Phone : 703-602-5383

Program Code : TSCA
Job Order Number: 4702A13040/010/H
Sample Received: 950321
Sample Source: WISMF

ENVIRONMENTAL PCB TEST REPORT:

DESCRIPTION: PCB: SOLIDS / WIPES / OILS

SAMPLE	SAMPLE LOCATION / ID.	TEST	RESULT	UNITS	AROCLOR TYPE (#)
041	7-144-0-E, ALUM PNT/ #4 MAIN AIR EJECTOR	PCBSOLID	14	ug/g	1262
042	7-146-0-E, ALUM PT/AUX EXHAUST STEAM VLV	PCBSOLID	< 5	ug/g	ND
043	7-151-0-E, ALUM PNT/ AUX AIR EJECTOR #8	PCBSOLID	6	ug/g	1262
044	7-149-1-E, ALUM PNT/ #1 GENER. REACH ROD	PCBSOLID	48	ug/g	1262
045	3-139-0-L, BLACK RUBBER PIPE HANGER WRAP	PCBSOLID	33	ug/g	1254 1262
046	3-135-1-E, FELT VENT GASKET	PCBSOLID	17	ug/g	1254 1262
047	2-116-4-Q, BLACK DOUBLE-BACKED TAPE	PCBSOLID	8	ug/g	1254 1262
048	2-119-0-L, THERMAL BULKHEAD INSULATION	PCBSOLID	6	ug/g	1254 1262
049	2-120-4-Q, GRAY FIBROUS VENT GASKET	PCBSOLID	< 5	ug/g	ND
050	2-111-2-Q, THERMAL BULKHEAD INSULATION	PCBSOLID	5	ug/g	1254
051	1-135-2-L, WHITE DOUBLE-BACKED TAPE	PCBSOLID	< 5	ug/g	ND
052	1-117-0-C, ACOUSTICAL BULKHD INSULATION	PCBSOLID	7	ug/g	1254
053	1-116-0-C, BLACK RUBBER PIPE HANGER WRAP	PCBSOLID	< 5	ug/g	ND
054	01-118-1-L, BLACK RUBBER PORTHOLE GASKET	PCBSOLID	8	ug/g	1254
055	02-120-5-Q, BLACK RUBBER VENT GASKET	PCBSOLID	< 5	ug/g	ND
056	02-94-1-C, ACOUSTICAL BULKHD INSULATION	PCBSOLID	< 5	ug/g	ND
057	03-99-0-Q, BLACK RUBBER VENT GASKET	PCBSOLID	61	ug/g	1254 1262
058	03-103-1-Q, BLACK RUBBER VENT GASKET	PCBSOLID	22	ug/g	1254 1262
059	04-96-0-C, BLACK RUBBER VENT GASKET	PCBSOLID	19	ug/g	1254 1262
060	06-101-1-L, BLACK RUBBER VENT GASKET	PCBSOLID	< 5	ug/g	ND

Remarks:

(#) AROCLOR REPORTED WAS THE MAJOR PCB GROUP(S) DETECTED AND DOES NOT CONSTITUTE ALL COMMERCIAL GRADES.
ND = NONE DETECTED.

Reviewer (signature) *Howard Choffel* Date: *5/9/95* Released (signature) *James R. Mark* Date: *5/9/95* Code: 136.12
Phone 6-3029

The person designated to sign for an action verifies, based on personal observation, certified records, or direct report from watchstanders, and certifies by his signature that the action has been performed in accordance with the specified requirements.

Distribution:

FOR OFFICIAL USE ONLY
REPORTS MAY BE DUPLICATED,
BUT ONLY IN THEIR ENTIRETY.

PAGE 4 OF 4
REPORT NUMBER

95NN01486

MAY 10 1995

LABORATORY DIVISION
NORFOLK NAVAL SHIPYARD
PORTSMOUTH, VA. 23709-5000

Customer's Ref. No.: 10WA (88-61)
Submitted by: GLEN CLARK
Shop/Code : PHS 335D1
Phone : 703-602-5383

Program Code : TSCA
Job Order Number: 4702A13040/010/H
Sample Received: 950321
Sample Source: NISMF

ENVIRONMENTAL PCB TEST REPORT:

DESCRIPTION: PCB: SOLIDS / WIPES / OILS

SAMPLE	SAMPLE LOCATION / ID.	TEST	RESULT	UNITS	AROCLOR TYPE (#)
061	2-143-2-L, FIELD BLANK	PCBSW	< 10	ug/100 cm2	ND
062	05-100-0-C, FIELD BLANK	PCBSW	< 10	ug/100 cm2	ND
063	1ST TOOL CHECK / A.C.H.	PCBSW	< 10	ug/100 cm2	ND
064	2ND TOOL CHECK / A.C.H.	PCBSW	< 10	ug/100 cm2	ND
065	1ST TOOL CHECK / J.B.H.	PCBSW	< 10	ug/100 cm2	ND
066	2ND TOOL CHECK / J.B.H.	PCBSW	< 10	ug/100 cm2	ND
067	3RD TOOL CHECK / J.B.H.	PCBSW	< 10	ug/100 cm2	ND

Remarks:

(#) AROCLOR REPORTED WAS THE MAJOR PCB GROUP(S) DETECTED AND DOES NOT CONSTITUTE ALL COMMERCIAL GRADES.
ND = NONE DETECTED.

** Reviewer (signature)	Date:	Released (signature).	Date:	Code : 134.12
<i>Howard Chappell</i>	5/9/95	<i>Frances M. Ward</i>	5/10/95	Phone 6-3029

** The person designated to sign for an action verifies, based on personal observation, certified records, or direct report from watchstanders, and certifies by his signature that the action has been performed in accordance with the specified requirements.

Distribution:

ENVIRONMENTAL CHEMISTRY LABORATORY ANALYSIS REQUEST FORM

I. ADMINISTRATIVE INFORMATION

City 1 2 3 (Circle One) Request Completion Date: 4/30/95 Lab Rpt # 95NN01496
 Requestor: S Thompson Code: N32 Date: _____ Phone/Fax: 604-455-6384 Ref #: N/A
 Program Manager: G Clark PHS 33501 Phone: 703-602-5393 J.O.# 4702A13540/01414
 Priority Approved by: _____ This is a RESAMPLE of reference #: _____ Program Code: TSCA
 Additional sample information and intended data use: _____

II. ANALYSIS REQUEST

ORGANICS	RCRA	MET CHEMISTRY	IC	GRAPHITE AA	ICP METALS	OTHER
TOC	FLASH PT	pH	NITRATE N	ARSENIC		
TOX	CORROSIVITY	COND	NITRITE N	SILVER		
TX	1020	SP GRAY	CHLORIDE	LEAD		
ORGANIC		COB	FLUORIDE			
SCREEN	TCLP	TSS	PHOSPHATE	COLD VAPOR		
VOL ORG	METALS	TDS	SULFATE	MERCURY		
SEMI ORG	ORGANICS	ACIDITY				
ALCOHOL		ALKALINITY	METALS	ICP METALS	BACTERIOLOGY	
TPH	MET CHEMISTRY	KBAS	DIGESTION	ARSENIC	T COLI	
PCB	AMMONIA N	OIL/GREASE	HRSD	CADMIUM	F COLI	
SWIPE	PHOSPHATE	CHROME 6	HPDES	CHROME	F STREP	
SOLID	TOTAL	AGGRESSIVITY	CRANEY	COPPER	RES CL	
OIL	PHOSPHOROUS		OTHER	IRON	HPC	
WATER	TOTAL			LEAD	OTHER	
	CYANIDE			NICKEL		
	PHENOL		(CHECK METALS)	SILVER		
				ZINC		

SPECIAL ANALYSIS AND INSTRUCTIONS:

FIELD INFORMATION

Sample Source/Ship: IOWA 88-61
 Location: NISMIF Philadelphia NSY
 Grab ☒ Thief ☐ Comp A ☐ Other comp ☐
 PIN # (RCRA only) _____ pH _____ Temp _____ °C
 Sample Description: PCBS in oil. Solids 5
 IV CHAIN OF CUSTODY Collected by Thompson
 Date 4/19/95 Time 0730 Code 134.12 Phone 396-3373
 Relinquished by _____
 Received by _____ Date _____
 Time _____ Code _____ Phone _____
 Relinquished by _____
 Received by _____ Date _____
 Time _____ Code _____ Phone _____
 Relinquished by _____
 Received by _____ Date _____
 Time _____ Code _____ Phone _____

Multiple Sample Record Total number of samples 67

001	013
002	014
003	015
004	016
005	017
006	018
007	019
008	020
009	021
010	022
011	023
012	024

V CODE 106.323 INFORMATION

Will this sample(s) be used to help evaluate a potentially hazardous personnel exposure which has already occurred?
 Yes ☒ No ☐
 Requestor/Supervisor Signature: [Signature]
 Date: 4/19/95

REPORT NO.: 95NN21486PAGE: 10-4SHIP: IOWA BR-61DATE: 1/31/95

SAMPLE NO.	TIME	LOCATION	DESCRIPTION	CABLE YR.
1	N/A	4-189-1-E	3/8" Black Cable	1986
			Cable L505GU-3-M24643/15-011N	
2	N/A	4-192-1-E	1/2" Gray Cable	1991
			Cable TSGU-3 Sp. PVC	
3	N/A	4-199-1-E	1/2" Gray Cable	1993
			Amacord-Continental DSGU-3 Sp. PVC	
	N/A	4-199-1-E	3/4" Black Cable	1991
			Carol Cable Co. West FAF-9-NEOP	
5	N/A	2-173-2-L	3/8" Gray Cable	1993
			Pirelli Cable EM DSGU-4 Sp. PVC	
6	N/A	4-194-2-E	1" Gray Cable	1992
			Brown-Rex TTSU-30 Sp. PVC	
7	N/A	2-194-2-L	1" Gray Cable	1975
			Cable TSGU-23 Sp. PVC	
8	N/A	5-5-1-E	1/2" Gray Cable	1990
			Brown-Rex TTSU-10 Sp. PVC	
	N/A	1-1-5-1-E	3/4" Gray Cable	1991
			Amacord-Continental DSGU-3 Sp. PVC	
10	N/A	1-1-5-1-E	3/4" Gray Cable	1993
			Continental DSGU-3 Sp. PVC	

REPORT NO.: 75NNC1486SHIP: TDN/A BB-61PAGE: 20-4DATE: 1/31/95

SAMPLE NO. TIME		LOCATION	DESCRIPTION	CABLE YR.
11	N/A	02-89-0-C	5/8" GRAY Cable	1976
			ITT SUPERNANT Div. ZSU-3 STD PVC	
12	N/A	02-89-0-C	1" GRAY Cable	1976
			Collins TSGU-23 SPI PVC	
13	N/A	02-93-4-C	1/2" GRAY Cable	1975
			General Cable TSGU-3 SPI PVC	
14	N/A	02-93-0-C	3/4" GRAY Cable	1982
			Pirelli Cable EM TSGU-3 SPI PVC	
15	N/A	02-74-0-C	1/2" GRAY Cable	1974
			Plastoid Corp TTSU-5 SPI PVC	
16	N/A	02-75-0-C	3/4" GRAY Cable	Unknown
			Western Penn Wire #1	
17	N/A	02-70-0-C	1/2" GRAY Cable	1970
			General Cable ZSU-3 STD PVC	
18	N/A	02-74-0-C	1/2" GRAY Cable	1973
			Plastoid Corp TTSU-5 SPI PVC	
19	N/A	02-74-0-C	1/2" GRAY Cable	1973
			Plastoid Corp TTSU-5 SPI PVC	
20	N/A	02-77-0-C	1 1/2" GRAY Cable	1972
			General Cable Div THOF-42 NEOP	

SAMPLE LOGIN SHEET

REPORT NO.: 75NN01486

PAGE: 3 OF 4

VIP: Low RR-61

DATE: 1/31/95

NO.	TIME	LOCATION	DESCRIPTION
21	N/A	2-214-0-E	Grass from Sonar Winch
22	1	4-202-0-E	Grass from Aft Storing #1
23	1	4-192-1-E	Oil from Fill & Drain Pump
24		4-192-1-E	Grass from Fill & Drain Pump
25		4-193-1-E	Oil from Hydraulic 1: 30/40
26		2-192-0-L	Grass from Windlass
27		7-147-1-E	Oil from Stbd. Generator Sump Tank
28		2-123-4-0	Grass from Vertical Turbine Litter
29		2-127-4-0	Oil from 25" Litter
30		2-26-0-E	Oil from Stbd. Anchor Windlass Hydraulic Line
31		2-212-0-E	Black Rubber Cabin Hanger Wrap
32		4-198-2-E	Felt Vent Gasket
33		3-177-0-T	Black O.B. Tape
34		2-191-4-H	Thermal Exp. Insulation
35		2-171-0-L	Felt Vent Gasket
36		2-145-0-L	Black Rubber Vent Gasket
37		2-173-0-L	White O.B. Tape
38		2-172-4-L	Black O.B. Tape
39		2-100-0-0	Aluminum Paint from Ballast Flange
40		2-145-2-L	Black Rubber Vent Gasket
41		7-14--0-E	Aluminum Paint from #4 Main Air Ejector
42		7-40-0-E	Aluminum Paint from Aux Exhaust Storm Valve
		7-51-0-E	Aluminum Paint from Aux Air Ejector #1
		7-147--0-E	Aluminum Paint from #1 Generator Ratchet
45	1	3-175-0-L	Black Rubber Vent 149K Wrap

SAMPLE LOGIN SHEET

REPORT NO.:

95NNO1456

PAGE: 4 OF 7

IP:

IOWA BA-61

DATE: 1/31/95

NO. TIME		LOCATION	DESCRIPTION
46	N/A	3-135-1-E	Felt Vent GSKT.
47		2-116-4-W	Black D.B. Tape
48		2-119-0-L	Thermal Bld. Insulation
49		2-120-4-0	Gray Fibrous Vent GSKT
50		2-111-2-0	Thermal Bld. Insulation
51		1-135-2-L	White D.B. Tape
52		1-117-0-C	Acoustical Bld. Insulation
53		1-116-0-C	Black Rbr. Pipe Hgr. Wrap
54		01-117-1-L	Black Rbr. Partholz GSKT
55		02-120-5-0	Black Rbr. Vent GSKT.
56		02-94-1-C	Acoustical Bld. Insulation
57		03-99-0-0	Black Rbr. Vent GSKT
58		03-103-1-3	Black Rbr. Vent GSKT.
59		04-96-0-C	Black Rbr. Vent GSKT.
60		06-101-1-L	Black Rbr. Vent GSKT.
61		3-173-3-L	Field Blank
62		05-100-0-C	Field Blank
63		N/A	1st Tool Check - H. 7
64		N/A	2nd Tool Check - P. 7.14
65		N/A	1st Tool Check - T.B.H
66		N/A	2nd Tool Check - T.B.H
67	1	N/A	3rd Tool Check - T.B.H

EXHIBIT 2

**CONTRACT FOR THE DONATION
OF THE BATTLESHIP EX-IOWA (BB 61)**

THIS CONTRACT (the "**Contract**") entered into this ___ day of _____, 20___, by and between the Department of the Navy, United States of America (the "**Government**") and the Pacific Battleship Center (the "**Donee**") located in San Pedro, California (together, the "**Parties**").

WITNESSETH:

WHEREAS, 10 U.S.C. §7306 authorizes the Secretary of the Navy (the "**Secretary**") to transfer, by gift or otherwise, any vessel stricken from the Naval Vessel Register or any captured vessel, to any State, Commonwealth, or possession of the United States or any municipal corporation or political subdivision thereof, the District of Columbia, or any not-for-profit or nonprofit entity; and

WHEREAS, the Donee applied for donation of the battleship ex-IOWA (BB 61) (the "**Vessel**") (the hull and the structure of the ship), and has indicated its intention to preserve and exhibit the Vessel and its **Appurtenances** (machinery, equipment, and furnishings onboard the Vessel at the time of **Removal** (physical transfer of custody and control to Donee upon the Donee's removal of the Vessel from Navy's custody)); and

WHEREAS, the Donee has entered into an agreement with the Environmental Protection Agency ("**EPA**") concerning the maintenance and continued use of regulated Polychlorinated Biphenyl ("**PCB**") containing materials onboard the Vessel (the "**EPA/Donee Agreement**," attached as Appendix A) and the Department of the Navy has entered into an agreement with the EPA concerning the transfer and distribution in commerce of regulated PCB containing materials onboard the Vessel (the "**EPA/Navy Agreement**," attached as Appendix B); and

WHEREAS, the Donee agrees to maintain the Vessel in a condition satisfactory to the Secretary at no cost to the Government, suitable for public display, and if maintained water-borne, in a towable condition to facilitate periodic dry docking for underwater hull preservation; and

WHEREAS, the Donee agrees to accept title to the Vessel, inclusive of all financial responsibility for the continued maintenance, preservation, periodic dry docking if stored water-borne, and ultimately for disposal of the Vessel at the end of its useful life as a museum/memorial;

NOW THEREFORE, the Government agrees to transfer ownership of the Vessel and its existing Appurtenances to the Donee and the Donee agrees to accept ownership of the Vessel subject to the following terms and conditions:

1. Title

Following execution of this Contract by the Parties and upon the Removal of the Vessel from Navy's custody by the Donee, title to the Vessel shall vest in the Donee and shall remain in the Donee until transferred or terminated pursuant to paragraph 10 of this Contract.

2. No Current or Future Cost or Expense to the Federal Government

In accordance with 10 U.S.C. § 7306, the donation of this Vessel is at no cost to the United States and the Government shall not bear any current or future costs as a result of the donation.

3. Conditions Related to the Vessel

The Donee, including any successor in interest, shall be subject to the following terms and conditions:

(a) *Removal.* Within 60 days of execution of this Contract, the Donee shall remove the Vessel from Navy custody at the Vessel's current location. The Government provides the ship as-is, where-is without warranty of any kind. At least 30 days prior to removal from Navy custody, the Donee shall submit for approval to the Navy its final tow plan in conformance with the U.S. Navy Tow Manual. Failure of the Donee to remove the Vessel from Navy custody within the time allowed and without an approved extension may result in termination of this Contract.

(b) *Operation as Museum.* The Donee shall establish and operate the Vessel as a stationary ship museum and/or memorial for public display in the United States. The Donee shall continuously maintain its non-profit organization status in accordance with Section 501(c)(3) of the U.S. Internal Revenue Service tax code.

(c) *Condition Satisfactory.* In accordance with 10 U.S.C. § 7306(b), maintain the Vessel and its Appurtenances in a condition satisfactory to the Secretary. This means that the Donee shall preserve the Vessel to maintain infinite life as a public museum or memorial by preventing and controlling deterioration and corrosion. If stored water-borne, the Donee shall maintain the Vessel in a towable condition to facilitate transport to a dry dock for periodic underwater hull preservation or to a ship dismantling yard. The Donee shall maintain the Vessel in a configuration consistent with the time period of the Vessel's operational history in the U.S. Navy.

(1) The Donee shall maintain and use cathodic protection and dehumidification systems, or equivalents, to prevent and control underwater hull corrosion and internal condensation and corrosion.

(2) The Donee shall provide the Government reasonable access to the Donee's records, documents, and facilities, including the right to perform Vessel inspections, so that the Government may assess whether the Vessel is maintained in accordance with this

Contract. Inspection by the Government does not relieve the Donee of any responsibility assumed by the Donee.

(d) Activation of Systems.

(1) The Donee shall not activate or permit to be activated any system aboard the Vessel for the purpose of navigation or movement of the Vessel under its own power.

(2) The Donee shall not activate for use other than cosmetic display, safety or maintenance any weapon system, radar or sonar system, electronic systems, or any installed machinery aboard the Vessel requiring the use of petroleum products.

(e) Compliance with Law. The Donee shall comply with all applicable Federal, State, and local laws and regulations, including but not limited to those regarding environmental protection, occupational safety and health, and public safety.

(f) Financial Assignment. The Donee shall not assign any interest in this Contract or in the Vessel to any institution for the purpose of meeting any financial obligation of the Donee. Similarly, the Donee shall not permit the attachment of a lien or the perfection of a security interest regarding the Vessel. In the event of bankruptcy, neither the Vessel nor this Contract shall be assigned for the benefit of a trustee in bankruptcy, receiver or creditor of the Donee, by operation of law or otherwise.

(g) Transfer. The Donee shall not transfer any interest the Donee has in the Vessel and its Appurtenances, or any substantial part of the Vessel or its Appurtenances, unless the Donee obtains the prior written consent from the Secretary.

(1) The Donee shall require any successor in interest of the Vessel to agree to and comply with all provisions of this Contract. Any attempt to transfer the Vessel without such an agreement from the successor in interest will be null and void.

(h) Disposal. At the end of the Vessel's useful life as a museum/memorial, the Donee shall dispose of the Vessel in a manner consistent with the DoD Demilitarization manual after obtaining written consent from the Secretary. As the Vessel was not designed for an infinite life, the Donee must accomplish all necessary maintenance and preservation to prevent deterioration and corrosion to ensure its indefinite life or develop an end of life plan for the disposal of the Vessel in compliance with all applicable U.S. laws and regulations. By accepting the transfer of the Vessel, the Donee accepts responsibility and liability for the deferred demilitarization of the hull. The DoD Demilitarization Manual requires complete destruction of a warship's hull.

4. Historic Preservation

(a) Historic Property. The Donee acknowledges that the Vessel may be eligible for listing in the National Register of Historic Places. The Donee agrees to preserve the characteristics of the Vessel that may qualify it for inclusion in the National Register of Historic Places.

(b) *Prohibition.* No construction, alteration, modification or any other action shall be undertaken or permitted to be undertaken on the Vessel by the Donee that would materially alter the character-defining historic features of the Vessel without the prior consultation with and approval of the California State Historic Preservation Officer (SHPO). The Donee shall afford the SHPO thirty calendar days to review and comment on the Donee's proposed plans. If the California SHPO fails to respond within those thirty days, the Donee may proceed with the undertaking. The Donee will consult with the SHPO to develop any necessary management plan for the categorization and treatment of various parts of the Vessel. The management plan may incorporate standards from the Secretary of the Interior's Standards for Historic Vessel Preservation Projects. The Donee shall provide the Navy with a contemporaneous information copy of all Donee written communications with the SHPO made as part of the historic preservation consultation process described in this Article 4.

(c) *Scope.* The Donee may undertake the following types of actions without prior consultation with the California SHPO:

- (1) Any emergency action required to prevent or respond to fire, flooding, collision, or other incident that may endanger human life or the Vessel or pose an imminent threat to the environment;
- (2) Painting of the Vessel in the original color scheme;
- (3) Temporary modifications as specified in an approved transport and tow plan (e.g., tow preparations) as necessary for open-ocean transport/towing.
- (4) Preservation and repair of the Vessel with materials like-in-kind and species.

(d) *SHPO Inspection.* The California SHPO shall be permitted at all reasonable times to inspect the Vessel in order to ascertain whether the above conditions are being met.

(e) *Violations.* In the event of a violation of this section, the California SHPO or the Government may, following reasonable written notice to the Donee, institute a suit to enjoin the violation, seek damages, or require the restoration of those aspects that have been materially altered. This is in addition to any other remedy available under this Contract or at law or equity.

5. Liability

(a) The Government shall not be responsible for loss or damage to the environment, to the property of the Donee or of others, or for bodily injuries to or death of the Donee's officers, agents, servants or employees, or other persons, including but not limited to invitees, arising from or incident to the use, operation, display, maintenance, or mooring of the Vessel by the Donee.

(b) To the extent allowable by law, the Donee shall indemnify, save harmless, and defend the Government from and against all claims, demands, actions, liabilities, judgments, costs, fines, enforcement actions, civil suits, and any and all other costs of any kind, including but not

limited to attorney's fees, arising out of, claimed on account of, or in any manner predicated upon or relating to bodily injury, death, property damage, damage to natural resources, or failure to comply with any law or regulation (including potential environmental liabilities) caused by, arising from, or relating to, possession or use of the donated property.

6. Insurance

(a) *Towing Insurance.* For any tows, the Donee shall maintain purchased insurance and/or a self-insurance plan equivalent to (i) tower's broad form liability insurance, including damage to the Vessel, and (ii) tower's protection and indemnity insurance. The minimum insurance amounts for (i) and (ii) above shall be one million dollars (\$1,000,000).

(b) *Waterborne Insurance.* While the Vessel is waterborne, the Donee shall maintain purchased insurance and/or a self insurance plan equivalent to Marine Hull and Protection and Indemnity Insurance in an amount not less than one million dollars (\$1,000,000).

(c) *Permanent Moored Insurance.* Once permanently moored, the Donee shall maintain purchased insurance and/or a self insurance plan equivalent to Marine Hull insurance in an amount not less than five hundred thousand dollars (\$500,000) per occurrence and shall cover all physical damage risks to the vessel including, but not limited to risks of vandalism and malicious mischief. Additionally, the Donee shall maintain purchased insurance and/or a self-insurance plan equivalent to General Liability insurance, or the marine equivalent (P&I coverage), in an amount not less than one million dollars (\$1,000,000) (Singles Limit) per occurrence.

(d) *Indexed Amounts.* Every fifth anniversary of the execution of this Contract, all dollar amounts in this section shall be indexed to dollars at the time this Contract was signed and shall be adjusted based on the change in the most recent Consumer Price Index for all-urban consumers published by the Bureau of Labor Statistics or any successor index. The Donee shall modify its insurance policies as soon as practicable but no later than 120 days after the index adjustments are made.

(e) *Self-Insurance.* To the extent that the Donee does not procure purchased insurance, the Donee shall maintain the reserves in the Donee's self-insurance program in an amount equal to or greater than any required coverage amounts.

(f) *Government.* To the extent that the Donee elects to purchase commercial, third-party insurance coverage for the Vessel or for Vessel-related activities, all such insurance policies or coverages shall name the Government as an additional insured, and shall include a waiver of subrogation against the Government. All insurance shall at all times, to the extent permitted by law, insure or cover the United States Government, its agents and employees, from liabilities incurred in berthing, preparation for use, repairing, displaying to the public, or any and all activities associated with this Contract.

(g) *Notice.* The Donee shall notify the Government within three business days if the combination of the Donee's purchased insurance and self insurance reserves fall below the minimum insurance requirements.

7. Escrow Fund

(a) The Donee shall develop and maintain an escrow plan for the long-term maintenance of the Vessel. The Donee agrees to use the fund only for long-term maintenance (including periodic drydocking and underwater hull preservation, if water-borne), ship disposal, or contract termination costs. The Donee agrees not to use this fund for any other purpose, including the Donee's day-to-day operations or regular maintenance of the Vessel. Each fiscal year, the Donee shall place sufficient amounts in escrow to fully fund the applicable escrow plan.

(c) If the Donee is unable to develop and maintain a realistic escrow plan with sufficient funds, the Donee shall either transfer or dispose of the Vessel at its own costs pursuant to paragraph 10.

8. Health and Safety

(a) The Donee acknowledges that the Vessel was used for military and other purposes, and was not designed for public display or for use as a museum. As a result, the Vessel may contain potential hazards to the general public and individuals unfamiliar with structures, designs, arrangements and equipment commonly found in a marine or military environment.

(b) The Donee acknowledges that toxic substances including PCBs are present on the Vessel and that the transfer to and use by the Donee of the Vessel are prohibited by the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2601 *et seq.*, unless authorized by the Environmental Protection Agency. The Donee acknowledges that PCB items require special precautions to ensure against risks to health and the environment. The Donee shall manage all items on board the Vessel in accordance with TSCA and regulations implementing this statute, and in accordance with the requirements prescribed in the EPA/Donee Agreement.

9. Disputes

(a) This Contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613) ("CDA").

(b) All disputes arising under or relating to this Contract shall be resolved under the CDA.

(c) For purposes of the CDA, all references to the contractor in the CDA shall be the Donee and all references to the contractor officer in the CDA shall be to the Secretary's duly authorized representative.

10. Termination/Transfer/Disposal

(a) *Termination in the Event of a National Emergency.* The Secretary may terminate this Contract and retake possession of the Vessel as-is, where-is, should the Secretary determine that the Vessel is needed for reactivation in the event of a national emergency.

(b) Default by Donee.

(1) The Government may, by written notice of default to the Donee, unilaterally terminate this Contract if the Donee fails to:

(i) Remove the Vessel from Navy's custody within the time specified in this Contract or any extension;

(ii) Comply with the EPA/Donee Agreement such as to constitute a breach of that Agreement;

(iii) Perform any provision of this Contract; or

(iv) Prevent the Vessel from becoming a hazard to navigation, public health, safety, or property.

(2) The Government's right to terminate this Contract under subdivisions (b)(1)(i) to (iii) of this section may be exercised if the Donee does not cure such failure within 90 days (or more if authorized in writing by the Secretary) after receipt of the notice from the Secretary specifying the failure. The Government's right to terminate this Contract under subdivision (b)(1)(iv) of this section may be exercised by the Secretary immediately, without a cure period.

(3) If the Government terminates this Contract, it may acquire, under the terms and in the manner the Secretary considers appropriate, supplies or services necessary to bring the Vessel into compliance with paragraph 2(c) of this Contract. The Donee shall be liable to the Government for any and all costs of those supplies or services.

(4) If this Contract is terminated for default, the Donee shall, if requested by the Secretary, transfer title to the Vessel, including title to any improvements made to the Vessel or fixtures attached by the Donee and all Appurtenances transferred to the Donee under this Contract, to the Government.

(i) If the Government elects to take title to the Vessel, the Donee shall be liable for damages for all costs associated with returning the Vessel and its Appurtenances to the Government including, without limitation, dredging, towing, and repairs.

(ii) If the Government terminates this Contract due to a breach of (b)(1)(ii) of this section, the parties shall continue to have the rights, obligations, and remedies provided by the EPA/Navy Agreement and the EPA/Donee Agreement, which shall remain binding and unaffected by the termination. The rights provided under the EPA/Navy and the EPA/Donee Agreements shall be in addition to the rights and remedies under this Contract.

(5) The rights and remedies of the Government in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.

(c) *Transfer of Vessel.* With the Consent of the Secretary, the Donee may transfer the Vessel and its Appurtenances pursuant to paragraph 3(g). Once the new owner is bound by the terms of this Contract and the Vessel is transferred, the Donee shall have no further obligations under this Contract, unless otherwise agreed to by the Parties.

(d) *Disposal of Vessel.* With the consent of the Secretary, the Donee may dispose of the Vessel and its Appurtenances pursuant to paragraph 3(h). Once the Vessel and its Appurtenances are properly disposed of, the Donee shall have no further obligations under this Contract, unless otherwise agreed to by the Parties.

11. Compliance with Social Policies

This Contract incorporates the terms of the Navy's "Assurance of Compliance." The Donee agrees to comply with Title VI of the Civil Rights Act of 1964, Section 606 of the Federal Property and Administrative Services Act of 1949, as amended, and Section 504 Of the Rehabilitation Act of 1973, as amended.

12. Modification

The Parties may modify this Contract by mutual agreement. Any modification shall be in writing and shall be signed by authorized representatives of the Government and the Donee. Copies of all modifications shall be kept with all executed copies of this Contract.

13. Severability

If any provision of this Agreement is found to be unenforceable, the unaffected provisions will remain in effect and the Parties will negotiate a mutually acceptable replacement provision consistent with the Parties' original intent.

14. Point of Contact

Any decision by the Secretary may be made by his duly authorized representative. All communications and notifications shall be sent to the Department of Navy, Naval Sea Systems Command, Washington Navy Yard, D.C. 20376-2701 or to such address as may be provided from time to time by the Government.

15. Entire Agreement

This Contract, including any attachments and incorporations, constitutes the entire agreement between the Parties and supersedes all prior written and verbal agreements, representations, promises, or understandings by and between the Parties.

IN WITNESS WHEREOF, this Contract has been duly executed as of the date first written above.

The UNITED STATES OF AMERICA,
Department of the Navy